

Remarks

Reconsideration of this Application is respectfully requested.

As indicated on the Request for Continued Examination Transmittal Letter, Applicants respectfully request entry of the Amendment and Reply Under 37 C.F.R. § 1.116 filed on February 15, 2007 prior to entry of the foregoing Amendment. Upon entry of the foregoing amendment, claims 27-32, 34, 36, 62, 63, 65-73, 77, 78 and 81-83 are pending in the application, with claims 27, 28, 72 and 73 being the independent claims. Claims 59, 64 and 74 were previously cancelled without prejudice to or disclaimer of the subject matter therein. Claims 27, 28 and 73 have been amended in response to the Advisory Action mailed March 5, 2007. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

Rejections under 35 U.S.C. § 112, first paragraph

Claims 27-32, 34, 36, 59, 62-74, 77-81 and 81-83 were rejected under 35 U.S.C. § 112, first paragraph as allegedly failing to comply with the written description requirement. Not in acquiescence to the propriety of the rejection, but rather solely to advance prosecution, Applicants previously cancelled claims 59, 64 and 74. Applicants also amended claims 27, 28, 72 and 73 to add a phrase clarifying that the flanking or spacer amino acid residues prevent the occurrence of junctional epitopes. As amended

herein, claims 27, 28 and 73 have been amended to recite selecting ten or more CTL, or five or more HTL epitopes, respectively. Support for these amendments can be found throughout the specification, *inter alia*, at page 14, lines 8-10. With respect to the Examiner's rejection as it is applied to claims 72, 77 and 78, Applicants respectfully assert that these claims are nucleic acid versions of claims 27, 28 and 63, and that the specification provides ample support for any combination of CTL/HTL epitopes, specifically as multi-epitope constructs of nucleic acids, especially at page 13, line 28, through page 14, line 10 and page 28, lines 9-13.

With respect to the Examiner's comments that the specification does not disclose the combinations of the recited numbers of CTL and HTL epitopes (Advisory Action, p. 2), Applicants respectfully disagree. "The 'written description' requirement implements the principle that a patent must describe the technology that is sought to be patented; the requirement serves both to satisfy the inventor's obligation to disclose the technologic knowledge upon which the patent is based, and to demonstrate that the patentee was in possession of the invention that is claimed." *See Capon v. Eshhar*, 418 F.3d 1349, 1357 (Fed. Cir. 2005) and MPEP §2163. Every nuance of the claims does not have to be explicitly described in the specification. *See, e.g., Vas-Cath, Inc. v Mahurkar*, 935 F.2d 1555 at 1563 (Fed. Cir. 1991); *Martin v. Johnson*, 454 F.2d 746, 751 (CCPA 1972) (stating "the description need not be in *ipsis verbis* [i.e., "in the same words"] to be sufficient"). MPEP §2163. In instances where a particular step "is so straightforward that a detailed description in the specification is not necessary." *See Kao v. Unilever*, 441 F.3d. 963, 968 (Fed. Cir. 2006) *In haec verba* support for the precise combinations of the recited numbers of CTL and HTL epitopes because this step is so straightforward

to a person of ordinary skill in the art in light of the specification as a whole.

Furthermore, as outlined above, the specification provides ample support for the claimed combinations. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection.

Rejections under 35 U.S.C. § 102

Claims 28-29, 63, 73 and 78 were rejected under 35 U.S.C. § 102(e) as allegedly anticipated by Sette *et al.* (US 6,689,363). Not in acquiescence to the propriety of the rejection, but rather solely to advance prosecution, Applicants amended the claims to recite selecting five or more HTL epitopes. Therefore, Applicants respectfully request that the rejection be withdrawn.

Amdt. and Reply dated September 17, 2007

SETTE *et al.*
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Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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